

Supreme Court of New Jersey  
Disciplinary Review Board  
Docket No. DRB 19-194  
District Docket No. XIV-2016-0568E

---

In the Matter of  
Vadim Alper  
An Attorney at Law

---

:  
:  
:  
:  
:  
:  
:  
:  
:  
:

Decision

Argued: September 19, 2019

Decided: January 14, 2020

HoeChin Kim appeared on behalf of the Office of Attorney Ethics.

Peter Cipparulo, III appeared on behalf of respondent.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of New Jersey.

This matter was before us as a disciplinary stipulation filed by the Office of Attorney Ethics (OAE), in which respondent admitted having violated RPC 8.4(b) (committing a criminal act that reflects adversely on the lawyer's

honesty, trustworthiness or fitness as a lawyer) and RPC 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation).

For the reasons set forth below, we determine to impose a reprimand.

Respondent earned admission to the New Jersey bar in 2009 and to the New York bar in 2010. He has no disciplinary history. During the relevant time frame, he was not actively engaged in the practice of law in New Jersey.

Respondent and the OAE entered into a disciplinary stipulation, dated May 23, 2019, which sets forth the following facts in support of respondent's admitted ethics violations. In 2009, respondent graduated from law school and accepted a position as General Counsel to Marine Transport Logistics (MTL), a shipping company owned by his parents-in-law, Alla and Alex Solovyeva. Because MTL required little legal work, respondent's role morphed, in 2011, into Director of Operations. In that capacity, respondent traveled internationally, soliciting shipping clients for MTL. He was compensated via a one-third commission on all profits that he generated.

At some point, the Solovyevas agreed to sell MTL to respondent, but, ultimately, they reneged on that agreement. They also stopped paying respondent his earned commissions. Consequently, in 2014, while still working for MTL, and without his parents-in-law's knowledge, respondent incorporated his own company, Prestige Shipping.

In April 2015, respondent departed MTL. He was not required to execute an anti-competition agreement and retained the records of clients for whom he claimed MTL owed him commissions. Shortly after his departure, MTL sued him, alleging that he had sabotaged its business and seeking \$10 million in damages. Respondent counterclaimed, presumably for owed commissions. On July 10, 2015, Alla Solovyeva filed a criminal complaint against respondent, in Bayonne, New Jersey, alleging that he had stolen confidential customer information and had improperly accessed MTL's computer systems subsequent to ending his employment with the company.

On September 22, 2016, respondent reported to the OAE that he had been indicted, in Hudson County, for second-degree and third-degree computer criminal activity, in violation of N.J.S.A. 2C:20-25(c) and (e). On June 20, 2017, after the second-degree charge was downgraded, respondent was admitted into the Pre-Trial Intervention Program (PTI), for a term of twelve months. On June 29, 2018, respondent informed the OAE that he had successfully completed the PTI program.

In respect of the computer crimes charges, respondent admitted that, subsequent to leaving MTL's employ, he had, on several occasions, improperly used the login credential of existing MTL employee to access a database of shipping information on "INFOX@USA" (INFO), a subscription-based service

that MTL paid for in connection with its shipping operations. MTL had deleted respondent's INFO credentials upon his departure, but he knew other employees' login credentials because, as the former Director of Operations, he had created them. Respondent maintained that he had covertly accessed INFO solely in order to calculate the commissions owed to him, in connection with the civil litigation between him and MTL. Respondent conceded, however, that his actions were illegal and in violation of RPC 8.4(b) and (c).

Ultimately, MTL's lawsuit against respondent was dismissed, with prejudice, for MTL's failure to comply with discovery obligations. Respondent then withdrew his counterclaims, "because MTL and Alex and Alla Solovyeva's assets were substantially judgment-proof."

The OAE and respondent further stipulated, in respect of mitigation, that respondent has no prior discipline. The OAE urged a reprimand or a censure for respondent's misconduct, comparing respondent's misconduct to a line of disciplinary precedent involving crimes of identity theft.

In his July 30, 2019 brief to us, and during oral argument, respondent requested the imposition of a reprimand for his misconduct, emphasizing his lack of prior discipline, his prompt acceptance of responsibility for his misconduct, and his clouded judgment, precipitated by the intra-family dispute underlying his misdeeds.

Following a review of the record, we are satisfied that the facts contained in the stipulation clearly and convincingly support the finding that respondent violated RPC 8.4(b) and RPC 8.4(c).

Specifically, respondent stipulated that, on several occasions, subsequent to leaving MTL's employ, he improperly and covertly accessed INFO, a subscription-based service that MTL paid for and used for its shipping operations. Despite MTL's deletion of his login credentials for that database, he was able to gain entry by using the login credentials for existing MTL employees, which he had created while serving as MTL's Director of Operations. He asserted that the purpose of that illegal entry was limited to the calculation of the commissions that he claimed were owed to him, in connection with pending civil litigation with MTL. Respondent conceded that his actions were illegal and in violation of RPC 8.4(b) and RPC 8.4(c). Thus, he agreed to enter into both PTI and the disciplinary stipulation in connection with his misconduct.

In sum, respondent violated RPC 8.4(b) and RPC 8.4(c). The only remaining issue is the appropriate quantum of discipline to be imposed for respondent's criminal acts. As mentioned above, the OAE suggested a line of identity theft cases in support of a reprimand or a censure, while

acknowledging that respondent's misconduct was much less serious than the conduct addressed in those matters.

Generally, theft by an attorney results in a period of suspension, the length of which depends on the severity of the crime and mitigating or aggravating factors. See, e.g., In re Pariser, 162 N.J. 574 (2000) (six-month suspension for deputy attorney general (DAG) who pleaded guilty to one count of third-degree official misconduct for stealing items, including cash, from co-workers; his conduct was not an isolated incident, but a series of petty thefts occurring over a period of time; the attorney received a three-year probationary term and was ordered to pay a \$5,000 fine, to forfeit his public office as a condition of probation, and to continue psychological counseling until medically discharged; the attorney's status as a DAG was considered an aggravating factor); In re Burns, 142 N.J. 490 (1995) (six-month suspension for attorney who committed three instances of burglary of an automobile, two instances of theft by unlawful taking, and one instance of unlawful possession of burglary tools); In re Kopp, 206 N.J. 106 (2011) (retroactive three-year suspension for identity theft, credit card theft, theft by deception, and burglary; the attorney used the fruits of her criminal activity to support her addiction; mitigating factors included her tremendous gains in efforts at drug and alcohol rehabilitation); In re Bevacqua, 185 N.J. 161 (2005) (three-year suspension for

attorney who used a stolen credit card to attempt to purchase merchandise at a K-Mart store, and had five additional fraudulent credit cards and a fake driver's license in his possession at the time; prior reprimand and six-month suspension); and In re Meaden, 165 N.J. 22 (2000) (three-year suspension for attorney who wrongfully obtained the credit card number of a third party, then attempted to commit theft by using the credit card number to purchase \$5,800 worth of golf clubs, and made multiple misrepresentations on firearms purchase identification cards and handgun permit applications by failing to disclose his psychiatric condition and involuntary commitment; prior reprimand); But see In re Walzer, 203 N.J. 582 (2010) (censure for attorney employed by the Department of Human Services who, on at least fourteen occasions, took various items, totaling approximately \$100, from a blind refreshment vendor).

Respondent's computer crimes were not nearly as egregious as the above-described misconduct, which warranted terms of suspension. Conduct involving less serious criminal acts generally has resulted in the imposition of an admonition or a reprimand. See, e.g., In the Matter of Michael E. Wilbert, DRB 08-308 (November 11, 2009) (admonition for possession of eight rounds of hollow-point bullet ammunition, a violation of N.J.S.A. 2C:39-3(f), and possession of an over-capacity ammunition magazine, in violation of N.J.S.A.

2C:39-3(j), fourth-degree crimes for which the attorney was admitted into PTI); In re Murphy, 188 N.J. 584 (2006) (reprimand imposed on attorney who twice presented his brother's driver's license to police in order to avoid prosecution for driving-under-the-influence charges, in violation of RPC 8.4(b), RPC 8.4(c), and RPC 8.4(d); in addition, the attorney failed to cooperate with the OAE's investigation of the matter, in violation of RPC 8.1(b)); and In re LaVergne, 168 N.J. 409 (2001) (reprimand for attorney found guilty in municipal court of theft by failure to make required disposition of property received, a disorderly persons offense; the attorney entered into an agreement to purchase an automobile, never made payment, and instead took possession of the vehicle and allowed it to be registered to a new owner).

Here, respondent stipulated to the RPC violations and has no prior discipline in ten years at the bar. Although his case presents no aggravating factors independent of the underlying misconduct, we consider that he repeatedly engaged in the unauthorized, covert access to the subscription database, via MTL's employees' credentials, knowing that he was not authorized to do so. On balance, we determine that a reprimand is the appropriate quantum of discipline necessary to protect the public and preserve confidence in the bar.




Vice-Chair Gallipoli and Member Joseph voted to impose a censure.

Member Boyer did not participate.

We further determine to require respondent to reimburse the Disciplinary Oversight Committee for administrative costs and actual expenses incurred in the prosecution of this matter, as provided in R. 1:20-17.

Disciplinary Review Board  
Bruce W. Clark, Chair

By:   
Ellen A. Brodsky  
Chief Counsel

---

---

SUPREME COURT OF NEW JERSEY  
DISCIPLINARY REVIEW BOARD  
VOTING RECORD

In the Matter of Vadim Alper  
Docket No. DRB 19-194

---

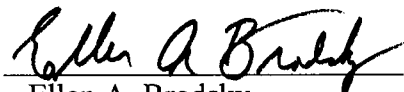
---

Argued: September 19, 2019

Decided: January 14, 2020

Disposition: Reprimand

<i>Members</i>	Reprimand	Censure	Recused	Did Not Participate
Clark	X			
Gallipoli		X		
Boyer				X
Hoberman	X			
Joseph		X		
Petrou	X			
Rivera	X			
Singer	X			
Zmirich	X			
Total:	6	2	0	1

  
Ellen A. Brodsky  
Chief Counsel